S.B.Cr.Misc. II Bail App. No. 3775/2005
(Kurda Ram Vs. State of Rajasthan)

Date of order : 01/06/2006

HON'BLE MR.H.R.PANWAR, J.

Mr. Mridul Jain for the petitioner.

Mr. J.P.S.Choudhary, Public Prosecutor.

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the challan papers.

It is contended by the learned counsel for the petitioner that in whole of the prosecution case, except the evidence that in the personal diary of main accused Mahendra Singh, telephone number of the petitioner was written, there is absolutely no evidence. The petitioner's father is suffering from heart ailment and is under treatment at Eternal Heartcare Center Pvt. Ltd., Jaipur. The petitioner himself has suffered the injury in the road accident resulting in fracture in his spine and is completely unable to move at his own. At present, the petitioner is admitted to Pooja Hospital and Medical Research Centre, Jaipur.

Having regard to the facts and circumstances of the case and the fact that except the telephone number of the petitioner written in the personal diary of main accused from whom contraband poppy straw was recovered, there is no other evidence, in my view, the bar of Section 37 of the NDPS Act would not apply in the facts and

circumstances of the case.

Keeping in view the fact that the applicant is unable to move because of fracture of spinal bone as also his father is undergoing treatment of heart ailment and that the bar of Section 37 of NDPS Act is not attracted, looking to the facts and circumstances of the case and having considered the oral arguments advanced by the counsel for the parties, I think it just and proper to enlarge the accused petitioner on bail.

Accordingly, this second bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Kurda Ram S/o Naga Ram be released on bail in FIR No. 323/05 P.S. Hanumangarh Town, provided he executes a personal bond for a sum of Rs. 20,000/- with two sound and solvent sureties in the sum of Rs.10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR), J.

RP